



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



ZONING MAP CHANGE REPORT

Meeting Date: December 5, 2011

Table A. Summary			
Application Summary			
Case Number	Z1100015	Jurisdiction	City
Applicant	Stephen T. Williams, WilcoHess, LLC	Submittal Date	June 10, 2011
Reference Name	Wilco-Hess	Site Acreage	13.78
Location	5224 NC 55 Highway, west side of NC 55 Highway south of NC 54 Highway and north of Sedwick Road		
PIN(s)	0727-01-99-4824		
Request			
Proposed Zoning	Commercial General with a development plan (CG(D)) (2.00 acres)and Residential Rural with a development plan (RR(D))(11.78 acres)	Proposal	3,500 – 4,000 square foot building
Site Characteristics			
Development Tier	Suburban		
Land Use Designation	Commercial, Recreation Open Space, Low Density Residential (4 DU/Ac. or less)		
Existing Zoning	Commercial Neighborhood (CN) and Residential Rural (RR)		
Existing Use	Vacant		
Overlay	F/J-B	Drainage Basin	Jordan Lake
River Basin	Cape Fear	Stream Basin	Northeast Creek
Determination/Recommendation/Comments			
Staff	Staff determines that this request is consistent with the <i>Comprehensive Plan</i> and other adopted policies and ordinances.		
Planning Commission	Approval, 12-0 on October 11, 2011. The Planning Commission finds that the ordinance request is consistent with the adopted <i>Comprehensive Plan</i> . The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.		
DOST	No comments		
BPAC	No comments		

A. Summary

This is a request to change the zoning designation of one 13.78-acre split-zoned parcel from CN and RR to CG(D) (2.00 acres) and RR(D) (11.78 acres) for development of a 3,500 – 4,000 square foot building on the CG(D) portion of the parcel. No development is proposed for the RR(D) portion of the parcel. The subject property is located at 5224 NC 55 Highway, on the west side of NC 55 Highway, south of NC 54 Highway and north of Sedwick Road (see Attachment 1, Context Map). This request is consistent with the future land use designation of the *Comprehensive Plan* which designates this parcel as Commercial, Recreation Open Space, and Low Density Residential (4 DU/Ac. or less).

Appendix A provides supporting information.

B. Site History

The existing zoning configuration has been applied to this parcel since at least 1967, when it was in the County's jurisdiction.

This parcel was part of a zoning map change request in 2001 (Case P01-42) to change the designation from Commercial Neighborhood (CN) and RR to Shopping Center with a development plan (SC(D)) and Residential Suburban – 10 with a development plan (RS-10(D)) for a shopping center fronting on NC 55 Highway. The Zoning Committee recommended denial of the request 7 – 0. The case was withdrawn on January 16, 2002 prior to City Council vote.

C. Review Requirements

Planning staff has performed a sufficiency review for this Zoning Map Change request (reference UDO Sec. 3.2.4, Application Requirements [general] and 3.5.5, Application Requirements [for a Zoning Map Change]). This staff report presents the staff findings per Sec. 3.5.8, Action by the Planning Director, on the request's consistency with the Unified Development Ordinance and applicable adopted plans.

This review is based primarily on compliance with any applicable laws, plans, or adopted policies of the City Council. Any issues or concerns raised in this report are based on best professional planning practice unless they have a basis in adopted plans, policies, and/or laws.

D. Unified Development Ordinance (UDO) Compliance

This request is consistent with the requirements of the Unified Development Ordinance. The associated development plan (Attachment 4, Development Plan reduction) provides the required elements for zoning map change requests in the CG and RR district (Sec. 3.5.6.D, Sec. 6.10.1.B, 6.2.1). In addition, commitments in excess of UDO requirements have been made (see Appendix D for supporting information):

Graphic Commitments. Elements depicted on a development plan (including but not limited to labels and descriptive information) become commitments. A summary of

graphic commitments (see Table D5, Summary of Development Plan) includes: two-way vehicle and pedestrian connectivity to NC 55 Highway with dedicated right-turn lane into site and site access with one ingress and two egress lanes (Attachment 4).

Text Commitments. The applicant has proffered a text commitment to construct a southbound right turn lane into the site from NC 55 Highway (see Table D5, Summary of Development Plan).

Determination. The requested CG(D) and RR(D) zoning districts and associated development plan meets or exceeds the applicable requirements of the UDO. If this zoning map change request is approved, the attached development plan (Attachment 4) shall establish the level of development allowed on the property.

E. Adopted Plans

A zoning map change request must be consistent with the *Comprehensive Plan*. As such, other adopted plans have been included by reference in this document. Table E, Adopted Plans, in Appendix E identifies the applicable policies of the *Comprehensive Plan* and other adopted plans included by reference.

Determination. The requested zoning districts and associated development plan are consistent with Future Land Use Map of the *Comprehensive Plan*. This request includes a commercial zoning designation, CG(D), which is consistent with the Commercial land use designation of the Future Land Use Map of the *Comprehensive Plan* for that portion of the parcel. Also, the proposed residential designation, RR(D), is consistent with that portion of the site designated as Low Density Residential (4 DU/Ac. or less) on the Future Land Use Map. The Future Land Use Map also designates a portion of the site as Recreation Open Space which matches the boundaries of the flood plain.

Conditions in other adopted plans have been identified (see Appendix E, Table E):

Durham Trails and Greenway Plan. A proposed greenway trail is shown impacting this site on Map I-18 of the Durham Trails and Greenway Plan. This trail is shown on the west side of Northeast Creek. A 200-foot wide Greenway Easement has already been dedicated to satisfy this proposal (see Attachment 4, Development Plan Reduction, sheet DP-1 and DP-4 and Attachment 8, Final Plat Greenway & Conservation Easement & Access/Utility Easement Plat for Kitt Creek Development, LLC).

Long Range Bicycle Plan Map 4.6. A proposed bicycle lane along NC 55 Highway is shown as a recommendation of the Long Range Bicycle Plan Map 4.6. If approved, this project would be required to construct a southbound right-turn lane into the site. The extent of constructing the southbound right-turn lane does not require improvements associated with the bicycle lane. However, should additional improvement be required in the future the right-of-way is of adequate width to accommodate this condition. This Plan also shows a proposed greenway consistent with the greenway proposed in the Durham Trails and Greenway Plan (see Attachment 4, Development Plan Reduction, sheet DP-1 and DP-4 and Attachment 8, Final Plat Greenway &

Conservation Easement & Access/Utility Easement Plat for Kitt Creek Development, LLC).

F. Site Conditions and Context

Site Conditions. This site consists of 13.78 acres of a split-zoned parcel. The parcel is approximately 290 feet wide by 2,100 feet long. The extensive 10.34 acre floodplain and associated stream and buffers essentially divides and isolates the two developable portions of the parcel. The frontage of the site along NC 55 Highway (presently zoned CN) has been previously cleared and graded and prepared with a gravel pad ready for development. The rear portion of the site (presently zoned RR) does not have street frontage and is adjacent to Parkwood Elementary School.

The RR portion of the site is entirely encumbered by a greenway conservation easement dedicated to the City and filed in 1989. Within the conservation area a 200-foot greenway easement for the purpose of accommodating the Northeast Creek Trail (see Section E of this report) has also been dedicated.

Area Characteristics. The site is located in the Suburban Tier, 1/8 mile south of the Suburban Transit Area that includes the intersection of East NC 54 Highway and NC 55 Highway. There is a commercial node at the intersection of these highways that is bordered by floodplain associated with Northeast Creek, on the west, which provides a clear boundary for commercial on this side of the node; with strip commercial extending south along NC Highway 55. The Future Land Use Map of the *Comprehensive Plan* extends this commercial node south of Sedwick Road until Burdens Creek (see Attachment 2, Future Land Use Map).

The suburban development patterns of the residential community of Parkwood, including Parkwood Elementary school characterize the uses to the west of the site.

The site and surrounding area is within the F/J-B Watershed Protection Overlay.

Appendix F provides a summary of the uses and zoning in the more immediate vicinity of the subject site.

Determination. The proposed CG(D) and RR(D) districts meet the ordinance and policy requirements in relation to site and context, and therefore is a reasonable request given the surrounding uses and densities. Much of the site is environmentally sensitive with measures having already been taken to protect the area. The proposed commercial development fronting along NC 55 Highway would be similar to other development in the vicinity which is predominantly commercial uses.

G. Infrastructure

The impact of the requested change has been evaluated to suggest its potential impact on the transportation system, water and sewer systems, and schools. In each case, the impact of the change is evaluated based upon a change from the most intense

development using the existing land use and zoning to the most intense use allowed under the request.

See Appendix G for additional information.

Determination. The proposed RR(D) and CG(D) districts are consistent with *Comprehensive Plan* policies regarding infrastructure impacts.

H. Staff Analysis

This request is consistent with the *Comprehensive Plan* and other adopted plans and policies. The development plan would allow a level of development consistent with the two contrasting land uses associated within the site's context area. The frontage of the site would accommodate a commercial facility similar to the other recent development in the area. The City controls a greenway conservation easement for the majority of the environmentally sensitive areas of the site and no other development will be allowed if this development plan is approved.

The existing CN zone is intended to accommodate commercial development supporting surrounding residential neighborhoods. Given that the commercial-zoned portion of the site is not in proximity to surrounding residential uses and has frontage on a four-lane highway with a center turn lane, the uses and intensity allowed in the proposed CG(D) designation, where businesses should be sited convenient to automotive traffic, seem more appropriate.

I. Contacts

Table I. Contacts		
Staff Contact		
Amy Wolff, Senior Planner	Ph: 919-560-4137, ext. 28235	Amy.Wolff@DurhamNC.gov
Applicant Contact		
Agent: Chris Clayton, Commercial Site Design, PLLC	Ph: 919-848-6121	clayton@csitedesign.com

J. Notification

Staff certifies that newspaper advertisements, letters to property owners within 600 feet of the site and the posting of a zoning sign on the property has been carried out in accordance with Section 3.2.5 of the UDO. In addition, the following neighborhood organizations were mailed notices:

- Inter-Neighborhood Council
- Partners Against Crime – District 4
- Fayetteville Street Planning Group
- Friends of Durham
- Unity in the Community for Progress

- Fairfield Community Awareness Committee
- Northeast Creek Stream Watch
- Parkwood Association

K. Summary of Planning Commission Meeting October 11, 2011 (Case Z1100015)

Zoning Map Change Request: CN, RR to CG(D), RR(D)

Staff Report: Ms. Wolff presented the staff report.

Public Hearing: Chair Brown opened the public hearing. One person spoke in favor and none spoke against. Chair Brown closed the public hearing.

Commission Discussion: Commission discussion centered around access, runoff, and spill containment.

Motion: Approval (Ms. Mitchell-Allen, Mr. Davis 2nd)

Action: Motion carried 12-0

Findings: The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

L. Supporting Information

Table K. Supporting Information		
Applicability of Supporting Information		
Appendix A	Application	Attachments: 1. Context Map 2. Future Land Use Map 3. Aerial Photography 4. Development Plan Reduction 5. Application 6. Owner's Acknowledgement 7. Submittal and Review History
Appendix B	Site History	No additional supporting information.
Appendix C	Review Requirements	No additional supporting information.
Appendix D	Unified Development Ordinance	Table D1: Designation Intent Table D2: District Requirements Table D3: Environmental Protection Table D4: Project Boundary Buffers Table D5: Summary of Development Plan

Appendix E	Adopted Plans	Table E: Adopted Plans Attachment: 8. Final Plat Greenway & Conservation Easement & Access/Utility Easement Plat for Kitt Creek Development, LLC
Appendix F	Site Conditions and Context	Table F: Site Context
Appendix G	Infrastructure	Table G1: Road Impacts Attachments: 9. DDOT TIA Memorandum 10. NCDOT TIA Memorandum Table G2: Transit Impacts Table G3: Utility Impacts Table G4: Drainage/Stormwater Impacts Table G5: School Impacts Table G6: Water Impacts
Appendix H	Staff Analysis	No additional supporting information.
Appendix I	Contacts	No additional supporting information.
Appendix J	Notification	No additional supporting information.
Appendix K	Summary of Planning Commission	Attachments: 11. Planning Commissioner's Written Comments 12. Ordinance Form

Appendix A: Application Supporting Information

Attachments:

1. Context Map
2. Future Land Use Map
3. Aerial Photography
4. Development Plan Reduction
5. Application
6. Owner's Acknowledgement
7. Submittal and Review History

Appendix D: Unified Development Plan Supporting Information

Table D1. UDO Designation Intent	
CG	<p>Commercial General – the CG district is established to provide for a wide variety of commercial activities of varying scales that are designed to be served by major thoroughfares; therefore, should be convenient to automotive traffic and maintain safe traffic flows. While CG is a commercial district, other uses such as residential and office may also be allowed. Some of the uses allowed in this district include hotels, self-service storage, car washes, and vehicle sales.</p>
RR	<p>Residential Rural – the RR district in the Suburban Tier is established to provide for agricultural activities and residential development on lots of at least 30,000 square feet. The regulations of this district are designed to discourage the development of urban services and to encourage the maintenance of an open and rural character. Only single-family detached dwellings and manufactured homes shall be permitted. While RR is a residential district, certain nonresidential uses such as day care facilities and places of worship may be sought through a special use permit or other limited provisions of the ordinance.</p>
D	<p>Development Plan – the letter “D” following a zoning district indicates that a development plan has been included with a zoning map change request. This designation may be added to any zoning map change request to signify that a conceptual representation of the proposed site has been submitted that indicates how the proposed development could meet ordinance standards. Any significant change to the development plan would require a new zoning petition.</p>
F/J-B	<p>Falls/Jordan District B Watershed Protection Overlay: The purpose this overlay district is to preserve the quality of the region's drinking water supplies through application of the development standards intended to protect the environment. In general, water supply protection will be accomplished by establishing and maintaining low intensity land use and development on land near the region's water supply rivers and reservoirs. Where high density development is desired, water supply protection will be accomplished through the use of engineered stormwater controls. The overall objective is to:</p> <ul style="list-style-type: none"> • Reduce the risk of pollution from stormwater running off of paved and other impervious surfaces; and • Reduce the risk of discharges of hazardous and toxic materials into the natural drainage system tributary to drinking water supplies.

Table D2. District Requirements – CG			
	Code Provision	Required	Proposed
Minimum Site Area (square feet)	6.10.1.B	20,000	87,120
Minimum Lot Width (feet)	6.10.1.B	100	290
Minimum Street Yard (feet)	6.10.1.B	25	25
Minimum Side Yard (feet)	6.10.1.B	25*	12.5
Minimum Rear Yard (feet)	6.10.1.B	25	1,800 (estimate)
Maximum Height (feet)	6.10.1.B	50	50
District Requirements – RR			
	Code Provision	Required	Proposed
Minimum Lot Area (square feet)	6.2.1	30,000	353,400
Maximum Residential Density (DU/Ac.)	6.2.1	1.4	0 (committed)

*Side yard may be reduced up to 50% if adjacent to a nonresidential district or use (Sec. 6.10.1.B.1.b)

Table D3. Environmental Protection			
Resource Feature	UDO Provision	Required	Proposed
Tree Coverage (%)	8.3.1C	10 (CG) (8,712 square feet) 20 (RR) (102,627 square feet) Total = 18.5 (111,339 square feet)	18.5 (111,350 square feet)
Impervious Surface (%)	8.7.2B	24 maximum (low density option)	24 (3.3 acres) (committed)
Stream Protection (buffer in feet)	8.5.4.B	50 (low density option)	50

Table D4. Project Boundary Buffers*			
Cardinal Direction	Adjacent Zone	Required Opacity	Proposed Opacity
North	CG(D)	0.2/0.2	0.2 (10 feet)
East	CN	n/a (right-of-way is > 60 feet wide)	n/a
South	CN	0.4/0.6	0.4 (20 feet)
West	n/a	n/a	n/a

*From CG(D) portion of the site. No development shown on RR(D) portion of site.

Table D5. Summary of Development Plan		
Components	Description	Development Plan Sheet
Required Information	Intensity/Density. 3,500 – 4,000 square foot commercial building	Cover, DP-3
	Building/Parking Envelope is appropriately identified and does not provide intrusion into floodplain or stream buffer.	DP-3
	Project Boundary Buffers. Appropriately identified.	DP-3
	Stream Crossing. None shown	n/a
	Access Points. One (1) site access drive and one (1) cross access easement have been identified.	DP-3, DP-4
	Dedications and Reservations. None proposed.	n/a
	Impervious Area. 10.16% = 1.4 acres (RR(D): 0%, CG(D) = 70%)	Cover, DP-3, DP-4
	Environmental Features: The following protected environmental features have been identified: <ul style="list-style-type: none"> Streams – 2.82 acres of stream buffers Floodplain (outside of stream buffers) - 7.52 acres Total floodplain and stream buffer – 10.34 acres 	DP-3, DP-4
	Areas for Preservation. There were no conditions identified that require preservation.	n/a
	Tree Coverage. 18.5% = 111,339 square feet	Cover, DP-4
Graphic Commitments	Two-way vehicle and pedestrian connectivity to NC 55 Highway with dedicated right-turn line into site.	DP-3

Table D5. Summary of Development Plan		
Text Commitments	1. Prior to the issuance of a certificate of occupancy, construct a southbound right turn lane with adequate storage and appropriate tapes on NC 55 Highway at the proposed site access	Cover
SIA Commitments	Location of stormwater management area.	DP-3
Design Commitments	Summary: Contemporary style brick veneer over wood framed building with brick accents including soldier and rowlock course. The building will have a large aluminum storefront openings consisting of 8 windows on the front elevation and four windows on the rear elevation. The roof line will be a flat and concealed by a flat top, brick, parapet wall. The exterior will be burgundy brick with a pink banded accent.	Cover

Appendix E: Adopted Plans Supporting Information

Table E. Adopted Plans	
Comprehensive Plan	
Policy	Requirement
Future Land Use Map	Commercial, Recreation Open Space, Low Density Residential (4 DU/Ac. or less)
2.2.2b	Demand for Residential Land
2.2.5a	Demand for Commercial Land
2.2.5c	Strip Commercial Development
8.1.2m	Transportation Level of Service
8.1.4b	Development Review and the Adopted Trails and Greenway Plan
8.1.4d	Development Review and the Adopted Bicycle Plans
9.4.1a, c	Water Quantity and Quality Level of Service
11.1.1a	School Level of Service
Durham Trails and Greenway Plan	
Map I-18 shows a proposed trail (Northeast Creek Trail) on the west side of Northeast Creek and associated floodplain.	
Long Range Bicycle Plan	
Map 4-6 shows a proposed greenway trail associated with Northeast Creek and a proposed bicycle lane along NC 55 Highway.	

Attachments:

- Final Plat Greenway & Conservation Easement & Access/Utility Easement Plat for Kitt Creek Development, LLC

Appendix F: Site Conditions and Context Supporting Information

Table F. Site Context			
	Existing Uses	Zoning Districts	Overlays
North	Vacant residential, Retail (car wash, ABC Store, restaurant, auto services)	RR, RS-10, CN, CG(D)	F/J-B
East	Vacant	CN	F/J-B
South	Vacant, office	RR, CN	F/J-B
West	Single-family residential, education facility	RS-10	F/J-B

Appendix G: Infrastructure Supporting Information

Table G1. Road Impacts		
NC 55 Highway is the major road impacted by the proposed zoning change. There are no scheduled City of Durham or NCDOT roadway improvement projects in the area.		
Affected Segments		NC 55 Highway
Current Roadway Capacity (LOS D) (ADT)		34,900
Latest Traffic Volume (AADT)		16,000
Traffic Generated by Present Designation (average 24 hour)*		3,798
Traffic Generated by Proposed Designation (average 24 hour)**		8,942 (103% of TIA)
Impact of Proposed Designation		+5,144

Source of LOS Capacity: FDOT Generalized Level of Service Volume Table 4-1 (2009)

NC 55: 5-lane undivided Class I Arterial roadway

Source of Latest Traffic Volume: 2009 NCDOT Traffic Count Map

*Assumption- (Max Use of Existing Zoning) – CN: convenience store with 7 fueling positions

** Assumption- (Max Use of Proposed Zoning) – CG (D): convenience store with 16 fueling positions

Attachments:

9. DDOT TIA Memorandum
10. NCDOT TIA Memorandum

Table G2. Transit Impacts
Transit service is currently provided adjacent to the site along northbound NC 55 via DATA Routes 7 and 12. The nearest stop according to gotriangle.org is within a ¼ mile walk to the south at Stop #6278 “NC 55 at Sedwick Dr” on northbound NC 55.

Table G3. Utility Impacts
This site will be served by City water and sewer. Both water and sewer lines are currently located within the NC 55 Highway right-of-way.

Table G4. Drainage/Stormwater Impacts
The impacts of any change will be assessed at the time of site plan review but generalized locations for stormwater facilities are reflected on the development plan.

Table G5. School Impacts			
The proposed zoning is not estimated to generate any students. This represents a decrease of four students over the maximum potential (if developed with the current zone) projected for the proposed development. Durham Public Schools serving the site are Parkwood Elementary School, Lowes Grove Middle School, and Hillside High School.			
Students	Elementary School	Middle School	High School
Current Building Capacity	15,864	8,647	9,916
Maximum Building Capacity (110% of Building Capacity)	17,450	9,512	10,908
20th Day Attendance (2009-10 School Year)	15,827	7,008	9,686
Committed to Date (October 2008–September 2011)	433	141	91
Available Capacity	1,190	2,363	1,131
Potential Students Generated – Current Zoning*	2	1	1
Potential Students Generated – Proposed Zoning**	0	0	0
Impact of Proposed Zoning	-2	-1	-1

*Assumption- (Max Use of Existing Zoning) – CN: 17 apartment units, RR: 2 single family units

** Assumption- (Max Use of Proposed Zoning) – CG (D): commercial use; RR: no development

Table G6. Water Supply Impacts	
This site is estimated to generate a total of 500 GPD if developed to its maximum potential with the proposed zoning district. This represents an decrease of 1,552 GPD over the existing zoning district.	
Current Water Supply Capacity	37.00 MGD
Present Usage	30.73 MGD
Approved Zoning Map Changes (October 2008 – September 2011)	0.77 MGD
Available Capacity	5.5 MGD
Estimated Water Demand Under Present Zoning*	2,052 GPD
Potential Water Demand Under Proposed Zoning**	500 GPD
Potential Impact of Zoning Map Change	-1,552

Notes: MGD = Million gallons per day

*Assumption- (Max Use of Existing Zoning) – CN: 13,939 sf commercial building, RR: 2 single family units

** Assumption- (Max Use of Proposed Zoning) – CG (D): 4,000 sf commercial building; RR: no development

Appendix K: Summary of Planning Commission

Attachments:

11. Planning Commissioner's Written Comments
12. Ordinance Form